IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,   :
    v.   : Case No. 2:07-cr-116-KRG-KAP
CHRISTOPHER FEKOS,   : Case No. 2:13-cv-1095-KRG-KAP
    Movant   :

MEMORANDUM ORDER

The movant's motion to vacate, docket no. 67, was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C.§ 636(b)(3), and Local Rule 72 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on August 1, 2013, docket no. 69, recommending that the motion to vacate be denied and that a certificate of appealability be denied because, *inter alia*, the motion to vacate was untimely and was barred by a valid waiver of post-conviction relief.
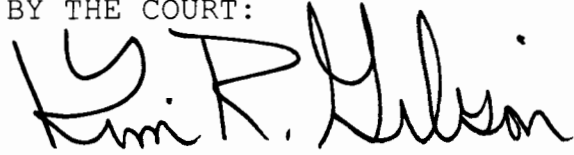
The parties were notified that pursuant to 28 U.S.C.§ 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. Movant filed a motion for extension of time to file objections and timely objections, docket no. 71, that are meritless. Movant's prosecutorial misconduct claim would have been known and allegedly was known to movant before sentence in this matter; the alleged recent discovery of another instance of prosecutorial misconduct not involving movant does not make his untimely claim timely under 28 U.S.C.§ 2255(f)(4). Additionally, movant's valid waiver of postconviction attacks is not limited to a waiver of direct appeals.

After de novo review of the record of this matter, together with the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this **11th** day of September, 2013, it is

ORDERED that the motion to vacate, docket no. 67, is denied. No certificate of appealability is issued. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark the civil matter closed.

BY THE COURT:

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

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